



## **Fact Sheet: CESU Cooperative and Joint Venture Agreements**

In 1998, P.L. 105-391 (Sec. 203) authorized and directed the Secretary of the Interior “to enter into cooperative agreements with colleges and universities, including but not limited to land grant schools, in partnership with other Federal and State agencies, to establish cooperative study units to conduct multi-disciplinary research...”. In response, and under existing cooperative agreement authorities, a network of Cooperative Ecosystem Studies Units was developed.

Cooperative Ecosystem Studies Units (CESUs) provide research, technical assistance and education to federal land management, environmental and research agencies and their partners. Their broad scope includes the biological, physical, social, and cultural sciences needed to address natural and cultural resource management issues at multiple scales and in an ecosystem context at the local, regional, and national level. Each CESU is comprised of federal agencies, a host university, and partner institutions.

On 22 June 1999, a Memorandum of Understanding (MOU) was signed by participating federal agency heads for establishing the CESU Network. The signatory agencies agreed to fully support, and work to expand the CESU Network, within the missions and authorities of the participating agencies. The MOU also established the CESU Coordinating Council.

Individual CESUs are administered using cooperative and joint venture agreements. These agreements allow each of the participating federal agencies to efficiently transfer funds to university partners while remaining substantially involved in the activities at each CESU. Below are frequently asked questions (FAQs) related to the cooperative and joint venture agreements used for CESUs.

Additional information about CESUs is maintained at the CESU Network website <<http://www.cesu.org/cesu>>. The website includes information on the CESU concept, the CESU Network, current CESUs, copies of existing CESU cooperative and joint venture agreements, and maps.

**1. How can multiple agencies be signatories to the same cooperative agreement?**

The structure of the CESU cooperative agreements combines separate cooperative agreement language for each federal agency into a single document. For accounting purposes, each agency has its own agreement number. Most importantly, in Article II of each of the CESU cooperative agreements, it is specified that each agency must follow its appropriate laws, regulations, and policy regarding administration of cooperative agreements. When federal funds are moved to a CESU, contracting officers treat the CESU cooperative agreement like any other cooperative agreement their agency has with a university or partner institution. The advantage of having a multi-agency cooperative agreement is the common commitment to the objectives of the CESU, increased efficiency in working with universities, and a greater ability to leverage funds and work cooperatively with other federal agencies.

**2. Does the federal government contract for services with CESU universities?**

No, activities at CESUs are not funded via contracts under federal contracting and procurement law. Rather, CESU activities are funded via cooperative agreements pursuant to the Federal Grant and Cooperative Agreement Act (31 U.S.C. 6301 et seq.) and the specific OMB circulars (A-21, A-87, A-102, A-110, A-122, and A-133) agency regulations (e.g. 43 CFR 12 for the Department of the Interior agencies), and agency policies (e.g. D.O. 20 for the National Park Service) that implement this Act. This distinction is important as it applies a different suite of laws and policies to administer federal funds at CESUs. One of the most significant distinctions between cooperative agreements and contracts is that “substantial involvement” of federal agency employees is required under cooperative agreements (31 USC 6305(2)). That is why, for example, each CESU has a managers committee made up of representatives from the participating federal agencies to collaborate with university partners in achieving the objectives of the CESU. This affords a greater degree of collaboration between federal scientists and managers with their universities counterparts. For additional information about the differences between contracts and cooperative agreements, refer to 31 USC 6303-6305.

**3. Why is there mention of a joint-venture agreement?**

Because of U.S. Forest Service policy and cooperative agreement authority, the term joint-venture agreement is included in the CESU agreements where the U.S. Forest Service is a federal agency partner. This applies only to the U.S. Forest Service. Joint-venture agreements are managed similarly to cooperative agreements for the U.S. Forest Service (7 USC 3318(b); USFS Manual Sec. 1580.13 and 1587). For all other agencies the CESU agreements are cooperative agreements and the term joint-venture is not applicable.

**4. Do CESUs replace competitive contracting?**

No, CESUs are fundamentally different from contracting. Since collaborative activities are funded via a cooperative agreement, federal agency personnel are substantially involved with university personnel in the activities at a CESU. While competition is not required in the awarding of cooperative agreements, it

is encouraged (31 USC 6305(2)). Each CESU was selected only after a broad announcement and competition.

**5. How were cooperative agreements for CESUs competed?**

The CESU Coordinating Council, which includes representatives from each participating agency, established a formal competition process for selecting the host university for each CESU. The process was approved by the DOI Solicitor's Office (letter on file). A detailed description of the competition process for awarding CESU cooperative agreements is contained in the document entitled, "Fact Sheet: Selecting and Establishing Cooperative Ecosystem Studies Units" and is available upon request.

**6. What are the authorities that make it legal for agencies to participate in CESUs?**

Each federal agency has its own existing authority to enter into cooperative agreements. This is specified in Article I of each CESU cooperative agreement. Copies of the existing cooperative agreements for each CESU are available on the CESU Network website <<http://www.cesu.org/cesu>>. For example, the National Park Service is authorized to enter into cooperative agreements pursuant to 16 USC 1a-2j and 16 USC 5933. The appropriate cooperative agreement authorities are specified for other agencies.

**7. Were the CESU cooperative agreements reviewed by agency solicitors for legal sufficiency?**

Yes, the CESU Coordinating Council sought legal review early in the development of the CESU cooperative agreements with the Department of the Interior Solicitor's Office. The final version of the CESU cooperative agreements were reviewed and approved by the Department of the Interior Solicitor's Office as meeting legal sufficiency and full compliance with the Federal Grant and Cooperative Agreement Act (letter on file). In addition, each participating agency separately reviewed and approved the CESU cooperative agreements through their own internal administrative and legal review processes prior to signing the existing CESU cooperative agreements.

**8. Does an agency have more flexibility with a CESU cooperative agreement as opposed to another cooperative agreement it has with a university?**

No, each agency must follow its own laws, regulations, and policies regarding cooperative agreements. The CESU cooperative agreements afford no exceptions to this requirement.

**9. Do the rules of one agency apply to other agencies' activities with a CESU?**

No, each agency must follow its own laws, regulations, and policies regarding administration of cooperative agreements. However, all participating agencies have agreed to use the single CESU cooperative agreement to achieve the objectives of the CESU.

**10. Since CESUs are relatively new, there are conceivable situations where policy is needed in the administration of CESUs that are not specifically addressed in an agency's laws, regulations, and policies regarding administration of cooperative agreements. Is there an additional source for guidance in these situations?**

The CESU Coordinating Council, in conjunction with representatives from agencies with expertise in cooperative agreement management, intends to convene a workshop to develop an administrative guide for CESUs. This guide will not supersede each agency's laws, regulations, and policies regarding administration of cooperative agreements, but rather provide supplementary guidance where these sources of policy are silent. The administrative guide will be drafted in FY 2001 and subject to wide review by the participating agencies, universities, and partner institutions.

**11. Whom may I contact if I have questions regarding CESU cooperative agreements?**

For more information, contact:

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